THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.16960 OF 2005

Dated 2nd August 2005

Between:

Sanaboina Pullayya Setty S/o.Chidambara Rao,

aged 49 years, Cultivation,

R/o.K.Pedapudi village, Ambajipeta Mandal,

East Godavari District.

…Petitioner

And

The Govt.of Andhra Pradesh,

Rep.by its Secretary, Endowments Department, & 3 others.

…Respondents

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O R D E R:

The petitioner claims that himself and his brothers are the tenants, in respect of Ac.8-33 cents of land, belonging to Sri Krishnarayudu Swamy Temple, K.Pedapudi village of Ambajipeta Mandal, East Godavari District. The petitioner filed an application before the Assistant Commissioner of Endowments, East Godavari District, third respondent herein, seeking a declaration that he is a landless

poor, as defined under Explanation-II of sub-section (2) of Section 82 of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). The application was rejected by the third respondent, through his order dated 28.3.2005. The petitioner preferred an appeal before the Regional Joint Commissioner of Endowments, Kakinada, the second respondent herein. The appeal was dismissed on 13.7.2005. The petitioner claims that he intends to avail the further remedy with the Government. His grievance is that in the mean while, the 4th respondent is proceeding to auction the leasehold rights of the land.

Sri N.V.Anantha Krishna, learned counsel for the petitioner, submits that if the present holdings of the petitioner and his brothers are taken into account, they deserve to be treated as landless poor, and are entitled for protection accorded in the Act and the rules made thereunder. Learned Government Pleader for Endowments, on the other hand, submits that two authorities have concurrently held, after verification of the record and following the judgment of this Court in W.P.No.1302 of 2003, dated 5.8.2003, that the petitioner is not a landless poor, and that he is not entitled to continue in the land, any more. He further contends that even in case, where the tenants are found to be landless poor, the leasehold rights are to be granted, only after conducting auction.

The attempt of the petitioner, to get himself declared as landless poor, did not fructify before both the authorities. Section 82 of the Act brings about a statutory termination of the tenancy, in respect of agricultural lands held by Hindu religious institutions. The protection accorded under the relevant provisions, in relation to landless poor, is limited and not absolute. Wherever a tenant is declared as landless poor, the benefit conferred upon him is to the effect that in case, the religious institution intends to sell the land, the tenant so declared, shall be entitled to purchase it at 75% of the market value. In other words, the rights of a landless poor would become relevant, only in the event of the land being sold. As far as grant of leasehold rights are concerned, it is always through the process of conducting auction, and in case, the existing tenant, whether landless poor or otherwise, is willing to pay the highest rent that is fetched in the auction, he can be continued, as a fresh lessee.

As of now, the petitioner was declared to be not a landless poor. He cannot have any preferential or other rights, to insist that he alone shall be continued as

tenant. Hence, no exception can be taken to the action taken by the respondents. However, in case, the petitioner is willing to offer the highest rent that is fetched in the auction, before the bid is finalized in favour of others, he can be certainly granted leasehold rights, afresh.

For the foregoing reasons, the writ petition is dismissed, leaving it open to the petitioner to participate in the auction, and to offer the highest rent that is fetched in the auction. In such an event, and if he complies with other conditions, he shall be entitled to grant lease afresh, without reference to his previous tenancy, or other rights. There shall be no order as to costs.

2nd August 2005

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